

**R277. Education, Administration.**

**R277-709. Education Programs Serving Youth in Custody.**

**R277-709-[2]1. Authority and Purpose.**

[A-](1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board[;];

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section 53A-1-403(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody[, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].

[B-](2) The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

**R277-709-[4]2. Definitions.**

[A-](1) "Accreditation" means the formal process for evaluation and approval under the Standards for the Northwest Accreditation Commission supported by AdvancED.

~~[B. "Board" means the Utah State Board of Education.]~~

[C-](2) "Custody" means the status of being legally subject to the control of another person or a public agency.

~~[D. "LEA" means local education agency, including local school boards/ public school districts and charter schools.]~~

~~[E. "SEOP/plan for college and career readiness" means a plan for students in grades 7-12 that includes:~~

~~—— (1) all Board and LEA board graduation requirements;~~

~~—— (2) the individual student's specific course plan that will meet graduation requirements and provides a supportive sequence of courses consistent with identified post-secondary training goals;~~

~~—— (3) evidence of parent, student, and school representative involvement annually;~~  
and

~~\_\_\_\_\_ (4) attainment of approved workplace skill competencies.]~~

~~[F. "USOE" means the Utah State Office of Education.]~~

~~[G.](3)(a) "Youth in custody" means a person [defined] for whom the Board is responsible to provide educational services under Subsections 53A-1-403(2)(a) and 62A-15-609(1).~~

~~(b) "Youth in custody" does not include a person taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.~~

**R277-709-3. Student Evaluation, Education Plans, and LEA Programs.**

~~[A.](1) Each student meeting the eligibility definition of youth in custody shall have a written SEOP/plan for college and career readiness defining the student's academic achievement, [and] which shall specify known in-school and extra-school factors which may affect the student's school performance.~~

~~[B.](2) [Annually, the student's SEOP/plan for college and career readiness shall be reviewed by the] A student, school staff and parent/guardian [and] shall annually review the student's SEOP/plan for college and career readiness maintained in the student's file.~~

~~[C.](3) [The] A program receiving [the] a youth in custody student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation, which may include a special education eligibility evaluation, as quickly as possible so that unnecessary delay in developing a student's education program is avoided.~~

~~[D.](4) The LEA in which [the] a youth in custody program [resides] is located has the responsibility to conduct [Individuals with Disabilities Education Act (IDEA)] child find activities within the program, consistent with Section R277-750-2 and Utah State Board of Education Special Education Rule II.A.~~

~~[E.](5)(a) A youth in custody program shall prepare [Based upon the results of the student evaluation,] an appropriate SEOP/plan for college and career readiness and, as needed, an [special education] Individualized Education Program [(IEP), shall be prepared] for each eligible youth in custody based upon the results of the student evaluation.~~

~~(b) A youth in custody program shall review and update [the] the plans required under~~

Subsection (5)(a) ~~[shall be reviewed and updated]~~ at least once each year or immediately following transfer of a student from one program to another, whichever is sooner.

(c) A youth in custody program shall develop ~~[F]~~the plans required under Subsection (5)(a) ~~[is developed]~~ in cooperation with appropriate representatives of other service agencies working with a student.

(d) The plans required under Subsection (5)(a) shall specify the responsibilities of each of the agencies towards the student and ~~[is]~~ shall be signed by each agency's representative.

~~[F:]~~(6)(a) All provisions of the IDEA and state special education rules apply to youth in custody programs.

(b) The USBE Special Education Department shall include ~~[Y]~~youth in custody programs ~~[shall be included in the USOE]~~ in annual general supervision monitoring ~~[annually]~~.

~~[G. LEA Youth in Custody Programs]~~

~~[(1)7]~~(a) ~~[The]~~An LEA shall provide an education program for the student which conforms as closely as possible to the student's education plan.

(b) An LEA shall provide ~~[E]~~educational services ~~[shall be provided]~~ in the least restrictive environment appropriate for the student's behavior and educational performance.

~~[(2)8]~~ An LEA shall consider ~~[Y]~~youth in custody who do not require educational services or supervision beyond students not in custody ~~[shall be considered]~~ to be part of the district's regular enrollment and provided education services.

~~[(3)9]~~ An LEA shall not assign or allow ~~[Y]~~youth in custody ~~[shall not be assigned to, or]~~ to remain~~[:]~~ in restrictive or non-mainstream programs simply because of:

(a) their custodial status~~[:]~~;

(b) past behavior that does not put others at risk~~[:]~~; or

(c) the inappropriate behavior of other students.

~~[(4)10]~~(a) Education programs to which youth in custody are assigned shall meet the standards which are adopted by the Board for that type program.

(b) The Superintendent shall monitor ~~[C]~~compliance ~~[shall be monitored by the Utah]~~

~~State Office of Education]~~ in periodic review visits.

(~~[5]~~11) An LEA shall accept [C]credit earned in youth in custody programs that are accredited [shall be accepted] at face value in Utah's public schools consistent with Section R277-410-9, Transfer or Acceptance of Credit.

(~~[6]~~12) A youth in custody program shall sufficiently coordinate [E]educational services [shall be sufficiently coordinated] with non-custody programs to enable youth in custody to continue their education with minimal disruption following discharge from custody.

(~~[H]~~)(13)(a) A [Y]youth in custody program shall [be] admitt[ed] youth in custody to classes within five school days following arrival at a new residential placement.

(b) If a youth in custody program cannot complete an evaluation and SEOP/plan for college and career readiness or IEP development [are delayed beyond that period] within five school days, the program shall enroll the student [shall be enrolled] temporarily based upon the best information available.

(c) [The] A temporary schedule may be modified to meet the student's needs after the evaluation and planning process [has been] is complete[d].

(~~[I]~~)(14)(a) Following a student's release from custody or transfer to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program consistent with Section 53A-11-504.

(~~[J]~~)(b) An LEA shall maintain [A]all grades, attendance records and special education SCRAM records [shall be maintained] in the LEA's SIS system in compliance with Rule R277-484, Data Standards.

#### **R277-709-4. Program Fiscal and Accountability Procedures.**

(~~[A]~~)(1) The Superintendent shall allocate [S]state funds appropriated for youth in custody, including the Utah State Hospital, [are allocated] in accordance with Section 53A-1-403 and Section 62A-15-609.

(~~[B]~~)(2) Funds appropriated for youth in custody programs shall be subject to Board accounting, auditing, and budgeting rules and policies.

[C. Board Contracts for Youth in Custody Services]

118           ~~[(1)]~~(3) ~~[t]The [Board]~~ Superintendent shall, through an annually submitted and  
119 approved state application~~[/]~~ and plan, contract with LEAs to provide educational services  
120 for youth in custody.

121           (a) A contract required by Subsection (3) shall include ~~[F]the respective~~  
122 responsibilities of the Board, LEAs, and other local service providers for education ~~[shall~~  
123 ~~be established in the contract]~~.

124           (b) An LEA may subcontract with local non-district educational service providers for  
125 the provision of educational services~~[;]~~.

126           ~~[(2)]~~(4) ~~[the Board]~~ The Superintendent may only contract through an RFP process  
127 with an appropriate entity ~~[only]~~ if the ~~[Board]~~ Superintendent determines that the LEA  
128 where the facility is located is unable or unwilling to provide adequate education services.

129           ~~[(3)]~~(5) Youth in custody students receiving education services by or through an LEA  
130 are students of that LEA.

131           (6) Notwithstanding the procedures for determining an alternative district of  
132 residency in Rule R277-621, an LEA may not create an alternative district of residency for  
133 a student who has been placed in custody primarily in an attempt to receive services in a  
134 state funded youth in custody program.

135           ~~[D-]~~(6) The Superintendent shall allocate ~~[S]~~state funds appropriated for youth in  
136 custody ~~[are allocated]~~ on the basis of an annually submitted and approved application  
137 made by the LEA where a youth in custody program resides.

138           ~~[E-]~~(7) The Superintendent shall base the share of funds distributed to an LEA ~~[is~~  
139 ~~based]~~ upon criteria<sub>1</sub> which include:

140           (a) the number of youth in custody served by the LEA~~[;]~~<sub>1</sub>;

141           (b) the type of program required for the youth~~[;]~~<sub>1</sub>;

142           (c) the setting for providing services~~[;]~~<sub>1</sub>; and

143           (d) the length of the program.

144           ~~[F-]~~(8) A youth in custody program shall expend ~~[F]~~funds approved for youth in  
145 custody projects ~~[shall be expended]~~ solely for the purposes described in the respective  
146 funding application.

147           ~~[G-]~~(9) ~~[USOE]~~ Superintendent may retain no more than five percent of the total

youth in custody annual legislative appropriation for administration, oversight, monitoring, and evaluation of youth in custody programs and their compliance with law and this rule.

~~[H.](10)~~ Up to three percent of the five percent of administrative funds allowed under ~~[R277-709-4G]~~ Subsection (9) may be withheld by the ~~[USOE]~~ Superintendent and directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs or initiatives benefitting youth in custody students.

~~[I. Funds, state (flow through or state contract) or federal (reimbursement) or both, may be withheld or terminated]~~

(11) The Superintendent may withhold federal or state funds for noncompliance with state policy and procedures and associated reporting timelines ~~[as defined by the Board]~~ in accordance with Rule R277-114.

~~[J.](12)~~ The ~~[Board or its designee]~~ Superintendent shall develop uniform forms, deadlines, reporting and accounting procedures and guidelines to govern the youth in custody school-based programs and Utah State Hospital funded programs.

**R277-709-5. Youth in Custody Programs and Students with Disabilities.**

~~[A.](1)~~ The youth in custody program is separate from and not conducted under the state's education program for students with disabilities.

(2) Custodial status alone does not qualify a youth in custody student as a student with a disability under laws regulating education for students with disabilities.

~~[B.](3)~~ Youth in custody students may be eligible for special education funding and services based upon special education rules and regulations.

~~[C.](4)~~ Youth in custody students qualifying for special education services shall receive educational instruction as defined in Rule R277-750, Education Programs for Students with Disabilities.

~~[D.](5)~~ Special education procedural safeguards shall apply to all IDEA eligible youth in custody students regardless of instructional location.

~~[E.](6)~~ The Superintendent shall monitor ~~[S]~~ special education programs provided through youth in custody programs ~~[shall be monitored]~~ on an annual basis ~~[as defined by]~~ in accordance with special education rules and policies.

**R277-709-6. Youth in Custody Program Staffing and Monitoring.**

[A.](1) Education staff assigned to youth in custody shall be qualified and appropriate for their assignments ~~[as defined in R277-503, Licensing Routes.]~~ in accordance with Board licensing rules.

[B.](2) Youth in custody programs shall maintain accreditation as part of the LEA where the programs are located consistent with Rule R277-410, Accreditation of Schools.

[C.](3) The ~~[USOE]~~ Superintendent shall evaluate youth in custody programs through regular site monitoring visits and monthly desk monitoring~~[-as directed by the USOE].~~

[D.](4) Monitored programs shall prepare and submit to the ~~[USOE]~~ Superintendent a written corrective action plan for each monitoring finding, as requested by the ~~[USOE]~~ Superintendent.

[E.](5) A youth in custody program's failure to resolve ~~[audit]~~ monitoring findings as soon as possible, and, in no case, later than one calendar year from date of notice, may result in the termination of state funding as provided in Rule R277-114~~[-Corrective Action and Withdrawal or Reduction of Program Funds].~~

[F.](6) The ~~[USOE]~~ Superintendent may review LEA or State Hospital records and practices for compliance with the law and this rule.

**R277-709-7. Utah State Hospital.**

[A.](1) Funding for the education programs at the Utah State Hospital shall be contingent upon a legislative appropriation.

[B.](2)(a) State education contract funds appropriated for State Hospital youth in custody are allocated to the LEA on a reimbursement basis.

(b) The State Hospital shall annually submit requests for reimbursement.

[C.](3) Funding shall be distributed to the LEA on a reimbursement basis subject to required documentation that supports expenditures.

[D.](4) Funds may be withheld or terminated for noncompliance with state and federal policies and procedures and associated reporting requirements and timelines as defined by the ~~[USOE]~~ Superintendent and in accordance with Rule R277-114.

[E-](5) The Utah State Hospital shall serve [A]all students qualifying for special education services [shall be served by] in accordance with the special education standards [defined] adopted in the Special Education Rules and [in] Rule R277-750.

~~[F. Staff providing special education services shall comply with all state special education rules, policies and procedures, including SCRAM reporting, child find, assessment and financial accountability, as defined by the Board.]~~

**R277-709-8. Youth in Custody/LEA Fiscal Procedures.**

[A-](1) Ten percent or \$50,000, whichever is less, of state youth in custody funds or educational contract funds ~~[(State Hospital)]~~ not expended in the current fiscal year may be carried over by eligible LEAs and spent in the next fiscal year with written approval of the ~~[USOE]~~ Superintendent.

[B-](2) An LEA shall submit a request to carry over funds ~~[shall be submitted]~~ for approval by August 1.

(3) If [A]approved, an LEA shall detail carry over amounts ~~[shall be detailed]~~ in a revised budget submitted to the ~~[USOE]~~ Superintendent no later than October 1 in the year requested.

[C-](4) The Superintendent may consider [E]excess funds ~~[may be considered]~~ in determining the LEA's allocation for the next fiscal year.

[D-](5)(a) The Superintendent shall [A]annually[;] recapture fund balances in excess of ten percent or \$50,000 ~~[shall be recaptured by the USOE]~~ no later than February 1. ~~[and]~~

(b) The Superintendent shall reallocate[d] funds recaptured in accordance with Subsection (5)(a) to the youth in custody programs based on the criteria and procedures provided by [the USOE] this rule.

**R277-709-9. Program, Curriculum, Outcomes and Student Mastery.**

[A-](1) Youth in custody programs shall offer courses consistent with the Utah Core standards under Rule R277-700.

[B-](2) [The]A youth in custody program may modify or adjust Utah core standards

and teaching strategies ~~[may be modified or adjusted]~~ to meet the individual needs of youth in custody students.

~~[C.](3) Youth in custody programs shall stress [C.]~~course content mastery ~~[shall be stressed]~~ rather than completion of predetermined seat time in a classroom.

~~[D.](4) The Superintendent shall make available [W.]~~written course descriptions for GED Test preparation ~~[shall be made available]~~ for youth in custody students who consider pursuing GED Tests as an alternative to traditional Carnegie diploma courses.

**R277-709-10. Confidentiality.**

~~[A.](1) An LEA shall issue [F.]~~transcripts and diplomas prepared for youth in custody ~~[shall be issued]~~ in the name of an existing LEA, which also serves non-custodial youth and shall not bear references to custodial status.

~~[B.](2)~~ School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the LEA.

~~[C.](3)(a)~~ Members of the interagency team which design and oversee student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies.

~~(b)~~ The records and information obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, the student's legal guardian, or the eligible student, as defined under 20 U.S.C. 1232g(d).

~~[D. All information maintained in permanent form on a student from whatever source derived or received, is a student record under the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.~~

~~—— E. All confidentiality provisions that pertain to eligible students with disabilities under IDEA apply.]~~

(4) Youth in custody programs shall comply with all state and federal privacy requirements for student records.

**R277-709-11. Coordinating Council.**

[A-](1)(a) The Department of Human Services and the Board shall appoint a coordinating council in accordance with Subsection 53A-1-403(6)(a) to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.

(b) The coordinating [E]council shall operate under ~~[the]~~ guidelines developed and approved by the Department of Human Services and the Board.

[B-](2) Coordinating [E]council membership shall include a representative of the following:

- ([1]a) the Department of Human Services;
- ([2]b) the Division of Substance Abuse and Mental Health;
- ([3]c) the Division of Juvenile Justice Services;
- ([4]d) the Division of Child and Family Services;
- ([5]e) ~~[Utah State Office of Education]~~ the Board;
- ([6]f) the Administrative Office of the Courts;
- ([7]g) ~~[S]~~school district superintendents; and
- ([8]h) a Native American tribe.

**R277-709-12. Advisory Councils.**

[A-](1)(a) Each LEA serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs.

(b) Members of ~~[the]~~ council required under Subsection (1)(a) shall include, if applicable to the LEA, the following:

- ([1]i) a representative of the Division of Child and Family Services;
- ([2]ii) a representative of the Division of Juvenile Justice Services;
- ([3]iii) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;
- ([4]iv) a representative of community-based alternative programs for custodial

291 juveniles; and  
292       ([5]v) a representative of the LEA.  
293       [B:](2) [The] A local interagency advisory council required under Subsection (1)(a)  
294 shall:  
295       (a) adopt by-laws for its operation[-]; and  
296       [C:]b [~~Local interagency advisory councils shall~~] meet at least quarterly.

297 **KEY: students, education, juvenile courts**

298 **Date of Enactment or Last Substantive Amendment: [~~May 8, 2014~~]2018**

299 **Notice of Continuation: [~~March 12, 2013~~]2018**

300 **Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53A-1-403(1); 53A-1-**  
301 **401[~~(3)~~]**